

HOUSE BILL No. 2418

By Representative DiVita

2-7

AN ACT concerning support of a child; amending K.S.A. 21-3605 and 38-1121 and K.S.A. 2000 Supp. 20-164 and 60-1610 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) A district court that conducts proceedings under article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, shall issue written and specific factual findings and legal conclusions supporting its decision regarding such proceedings as follows:

- (1) Case number;
- (2) number and ages of children involved in the case;
- (3) income of each parent from all sources. If any income is imputed to a parent, the amount of such income;
- (4) child support issued;
- (5) child support guidelines recommended support level;
- (6) amount of child support, if any, derived from the extended formula;
- (7) credits or variation of child support guidelines;
- (8) special needs of the child;
- (9) asset to debt ratio of parents;
- (10) division of property, if in conjunction with a divorce proceeding;
- (11) maintenance issued and the length of time issued;
- (12) length of marriage;
- (13) what custodial arrangement has been granted; and
- (14) whether or not a parent plan was prepared and accepted by the court.

(b) Such findings and conclusions shall be a public record and shall be part of the case file. A copy shall be filed with the chief judge of the judicial district.

Sec. 2. K.S.A. 2000 Supp. 20-164 is hereby amended to read as follows: 20-164. (a) The supreme court shall establish by rule an expedited judicial process which shall be used in the establishment, modification and enforcement of orders of support pursuant to the Kansas parentage act; K.S.A. ~~23-451~~ 23-9, 101 *et seq.*, ~~39-718a~~, 39-755, 60-1610, and amendments thereto, or K.S.A. 39-718b, and amendments thereto; K.S.A. 38-

1 1542, 38-1543 or 38-1563, and amendments thereto; or K.S.A. 23-4,105
2 through 23-4,118 and amendments thereto; or K.S.A. 23-4,125 through
3 23-4,137, and amendments thereto.

4 (b) The supreme court shall establish by rule an expedited judicial
5 process for the enforcement of court orders granting visitation rights or
6 parenting time.

7 (c) *Official documents and forms provided through the expedited pro-*
8 *cess shall be deemed sufficient to establish, modify or enforce orders for*
9 *support, visitation or parenting time.*

10 Sec. 3. K.S.A. 21-3605 is hereby amended to read as follows: 21-
11 3605. (a) (1) *A child's parents have a duty to support the child.* Nonsup-
12 port of a child is a parent's failure, neglect or refusal without lawful excuse
13 to provide for the support and maintenance of the parent's child in ne-
14 cessitous circumstances.

15 (2) As used in this section, "child" means a child under the age of 18
16 years and includes an adopted child or a child born out of wedlock whose
17 parentage has been judicially determined or has been acknowledged in
18 writing by the person to be charged with the support of such child.

19 (3) At any time before the trial, upon petition and notice, the court
20 may enter such temporary order as may seem just providing for support
21 of such child, and may punish for violation of such order as for contempt.

22 (4) At any stage of the proceeding, instead of or in addition to im-
23 posing the penalty hereinafter provided, the court, in its discretion and
24 having regard for the circumstances and the financial ability or earning
25 capacity of the defendant, may enter an order which shall be subject to
26 change by the court, as circumstances may require, directing the defend-
27 ant to pay a certain sum periodically, for a term not exceeding the period
28 during which the obligation to support shall continue, to the guardian,
29 conservator or custodian of such child or to an organization or individual
30 approved by the court as trustee. The court shall also have the power to
31 release the defendant on probation for the period so fixed, upon the
32 defendant's entering into a recognizance, with or without surety, in such
33 sum as the court may order and approve. The condition of the recogni-
34 zance shall be such that if the defendant shall make a personal appearance
35 in court whenever ordered to do so and shall further comply with the
36 terms of such order of support, or of any subsequent modification thereof,
37 then such recognizance shall be void; otherwise the recognizance shall be
38 of full force and effect.

39 (5) If the court is satisfied by due proof that, at any time during the
40 period while the obligation to support continues, the defendant has vio-
41 lated the terms of such order, the court may forthwith proceed with the
42 trial of the defendant under the original charge, or sentence the defend-
43 ant under the original conviction, or enforce the suspended sentence as

1 the case may be.

2 (6) In no prosecution under this act shall any existing statute or rule
3 of law prohibiting the disclosure of confidential communications between
4 husband and wife apply, and both husband and wife shall be competent
5 witnesses to testify against each other to any and all relevant matters,
6 including the parentage of such child.

7 (7) Nonsupport of a child is a severity level 10, nonperson felony.

8 (b) (1) Nonsupport of a spouse is an individual's failure without just
9 cause to provide for the support of such individual's spouse in necessitous
10 circumstances.

11 (2) At any time before the trial in a prosecution for nonsupport of a
12 spouse, upon petition and notice, the court may enter such temporary
13 order as may seem just providing for support of such spouse, and may
14 punish for violation of such order as for contempt.

15 (3) At any stage of the proceeding, instead of or in addition to im-
16 posing the penalty hereinafter provided, the court, in its discretion and
17 having regard for the circumstances and the financial ability or earning
18 capacity of the defendant, may enter an order which shall be subject to
19 change by the court, as circumstances may require, directing the defend-
20 ant to pay a certain sum periodically, for a term not exceeding the period
21 during which the obligation to support shall continue, to the spouse or to
22 the guardian or conservator of such spouse or to an organization or in-
23 dividual approved by the court as trustee. The court shall also have the
24 power to release the defendant on probation for the period so fixed, upon
25 the defendant's entering into a recognizance, with or without surety, in
26 such sum as the court may order and approve. The condition of the re-
27 cognizance shall be such that if the defendant shall make a personal ap-
28 pearance in court whenever ordered to do so, and shall further comply
29 with the terms of such order of support, or of any subsequent modification
30 thereof, then such recognizance shall be void; otherwise the recognizance
31 shall be of full force and effect.

32 (4) If the court is satisfied by due proof that, at any time during the
33 period while the obligation to support continues, the defendant has vio-
34 lated the terms of such order, the court may forthwith proceed with the
35 trial of the defendant under the original charge, or sentence the defend-
36 ant under the original conviction, or enforce the suspended sentence as
37 the case may be.

38 (5) Failure by a spouse to use resources or income, or both, allowed
39 to the spouse under section 303 of the federal medicare catastrophic
40 coverage act of 1988 or under K.S.A. 39-785 through 39-790, and amend-
41 ments thereto, as applicable, to provide medical support for the other
42 spouse shall not constitute a violation of subsection (b)(1) so long as the
43 other spouse is receiving medical assistance as defined by K.S.A. 39-702

1 and amendments thereto.

2 (6) Nonsupport of a spouse is a severity level 10, nonperson felony.

3 Sec. 4. K.S.A. 38-1121 is hereby amended to read as follows: 38-
4 1121. (a) The judgment or order of the court determining the existence
5 or nonexistence of the parent and child relationship is determinative for
6 all purposes, but if any person necessary to determine the existence of a
7 father and child relationship for all purposes has not been joined as a
8 party, a determination of the paternity of the child shall have only the
9 force and effect of a finding of fact necessary to determine a duty of
10 support.

11 (b) If the judgment or order of the court is at variance with the child's
12 birth certificate, the court shall order that a new birth certificate be is-
13 sued, but only if any man named as the father on the birth certificate is
14 a party to the action.

15 (c) Upon adjudging that a party is the parent of a minor child, *the*
16 *parent shall have a duty to support the child.* The court shall make pro-
17 vision for support and education of the child including the necessary med-
18 ical expenses incident to the birth of the child. The court may order the
19 support and education expenses to be paid by either or both parents for
20 the minor child. When the child reaches 18 years of age, the support shall
21 terminate unless: (1) The parent or parents agree, by written agreement
22 approved by the court, to pay support beyond that time; (2) the child
23 reaches 18 years of age before completing the child's high school edu-
24 cation in which case the support shall not automatically terminate, unless
25 otherwise ordered by the court, until June 30 of the school year during
26 which the child became 18 years of age if the child is still attending high
27 school; or (3) the child is still a bona fide high school student after June
28 30 of the school year during which the child became 18 years of age, in
29 which case the court, on motion, may order support to continue through
30 the school year during which the child becomes 19 years of age so long
31 as the child is a bona fide high school student and the parents jointly
32 participated or knowingly acquiesced in the decision which delayed the
33 child's completion of high school. The court, in extending support pur-
34 suant to subsection (c)(3), may impose such conditions as are appropriate
35 and shall set the child support utilizing the guideline table category for
36 16-year through 18-year old children. Provision for payment of support
37 and educational expenses of a child after reaching 18 years of age if still
38 attending high school shall apply to any child subject to the jurisdiction
39 of the court, including those whose support was ordered prior to July 1,
40 1992. If an agreement approved by the court prior to July 1, 1988, pro-
41 vides for termination of support before the date provided by subsection
42 (c)(2), the court may review and modify such agreement, and any order
43 based on such agreement, to extend the date for termination of support

1 to the date provided by subsection (c)(2). If an agreement approved by
2 the court prior to July 1, 1992, provides for termination of support before
3 the date provided by subsection (c)(3), the court may review and modify
4 such agreement, and any order based on such agreement, to extend the
5 date for termination of support to the date provided by subsection (c)(3).
6 For purposes of this section, “bona fide high school student” means a
7 student who is enrolled in full accordance with the policy of the accredited
8 high school in which the student is pursuing a high school diploma or a
9 graduate equivalency diploma (GED). The judgment shall specify the
10 terms of payment and shall require payment to be made through the clerk
11 of the district court or the court trustee except for good cause shown.
12 The judgment may require the party to provide a bond with sureties to
13 secure payment. The court may at any time during the minority of the
14 child modify or change the order of support, including any order issued
15 in a title IV-D case, within three years of the date of the original order
16 or a modification order, as required by the best interest of the child. If
17 more than three years has passed since the date of the original order or
18 modification order, a requirement that such order is in the best interest
19 of the child need not be shown. The court may make a modification of
20 support retroactive to a date at least one month after the date that the
21 motion to modify was filed with the court. Any increase in support or-
22 dered effective prior to the date the court’s judgment is filed shall not
23 become a lien on real property pursuant to K.S.A. 60-2202, and amend-
24 ments thereto.

25 (d) If both parents are parties to the action, the court shall enter such
26 orders regarding custody, residency and parenting time as the court con-
27 siders to be in the best interest of the child.

28 If the parties have an agreed parenting plan it shall be presumed the
29 agreed parenting plan is in the best interest of the child. This presumption
30 may be overcome and the court may make a different order if the court
31 makes specific findings of fact stating why the agreed parenting plan is
32 not in the best interest of the child. If the parties are not in agreement
33 on a parenting plan, each party shall submit a proposed parenting plan
34 to the court for consideration at such time before the final hearing as may
35 be directed by the court.

36 (e) In entering an original order for support of a child under this
37 section, the court may award an additional judgment to reimburse the
38 expenses of support and education of the child from the date of birth to
39 the date the order is entered. If the determination of paternity is based
40 upon a presumption arising under K.S.A. 38-1114 and amendments
41 thereto, the court shall award an additional judgment to reimburse all or
42 part of the expenses of support and education of the child from at least
43 the date the presumption first arose to the date the order is entered,

1 except that no additional judgment need be awarded for amounts accrued
2 under a previous order for the child's support.

3 (f) In determining the amount to be ordered in payment and duration
4 of such payments, a court enforcing the obligation of support shall con-
5 sider all relevant facts including, but not limited to, the following:

- 6 (1) The needs of the child.
- 7 (2) The standards of living and circumstances of the parents.
- 8 (3) The relative financial means of the parents.
- 9 (4) The earning ability of the parents.
- 10 (5) The need and capacity of the child for education.
- 11 (6) The age of the child.
- 12 (7) The financial resources and the earning ability of the child.
- 13 (8) The responsibility of the parents for the support of others.
- 14 (9) The value of services contributed by both parents.

15 (g) The provisions of K.S.A. 23-4,107, and amendments thereto, shall
16 apply to all orders of support issued under this section.

17 (h) An order granting parenting time pursuant to this section may be
18 enforced in accordance with K.S.A. 23-701, and amendments thereto, or
19 under the uniform child custody jurisdiction and enforcement act.

20 Sec. 5. K.S.A. 2000 Supp. 60-1610 is hereby amended to read as
21 follows: 60-1610. A decree in an action under this article ~~may~~ shall include
22 orders on the following matters:

23 (a) *Minor children.* (1) *Child support and education.* *Parents owe a*
24 *duty to provide for the support and education of such parent's minor*
25 *children.* The court shall make provisions for the support and education
26 of the minor children. The court may modify or change any prior order,
27 including any order issued in a title IV-D case, within three years of the
28 date of the original order or a modification order, when a material change
29 in circumstances is shown, irrespective of the present domicile of the
30 child or the parents. If more than three years has passed since the date
31 of the original order or modification order, a material change in circum-
32 stance need not be shown. The court may make a modification of child
33 support retroactive to a date at least one month after the date that the
34 motion to modify was filed with the court. Any increase in support or-
35 dered effective prior to the date the court's judgment is filed shall not
36 become a lien on real property pursuant to K.S.A. 60-2202 and amend-
37 ments thereto. Regardless of the type of custodial arrangement ordered
38 by the court, the court may order the child support and education ex-
39 penses to be paid by either or both parents for any child less than 18
40 years of age, at which age the support shall terminate unless: (A) The
41 parent or parents agree, by written agreement approved by the court, to
42 pay support beyond the time the child reaches 18 years of age; (B) the
43 child reaches 18 years of age before completing the child's high school

1 education in which case the support shall not terminate automatically,
2 unless otherwise ordered by the court, until June 30 of the school year
3 during which the child became 18 years of age if the child is still attending
4 high school; or (C) the child is still a bona fide high school student after
5 June 30 of the school year during which the child became 18 years of
6 age, in which case the court, on motion, may order support to continue
7 through the school year during which the child becomes 19 years of age
8 so long as the child is a bona fide high school student and the parents
9 jointly participated or knowingly acquiesced in the decision which delayed
10 the child's completion of high school. The court, in extending support
11 pursuant to subsection (a)(1)(C), may impose such conditions as are ap-
12 propriate and shall set the child support utilizing the guideline table cat-
13 egory for 16-year through 18-year old children. Provision for payment of
14 support and educational expenses of a child after reaching 18 years of age
15 if still attending high school shall apply to any child subject to the juris-
16 diction of the court, including those whose support was ordered prior to
17 July 1, 1992. If an agreement approved by the court prior to July 1, 1988,
18 provides for termination of support before the date provided by subsec-
19 tion (a)(1)(B), the court may review and modify such agreement, and any
20 order based on such agreement, to extend the date for termination of
21 support to the date provided by subsection (a)(1)(B). If an agreement
22 approved by the court prior to July 1, 1992, provides for termination of
23 support before the date provided by subsection (a)(1)(C), the court may
24 review and modify such agreement, and any order based on such agree-
25 ment, to extend the date for termination of support to the date provided
26 by subsection (a)(1)(C). For purposes of this section, "bona fide high
27 school student" means a student who is enrolled in full accordance with
28 the policy of the accredited high school in which the student is pursuing
29 a high school diploma or a graduate equivalency diploma (GED). In de-
30 termining the amount to be paid for child support, the court shall consider
31 all relevant factors, without regard to marital misconduct, including the
32 financial resources and needs of both parents, the financial resources and
33 needs of the child and the physical and emotional condition of the child.
34 Until a child reaches 18 years of age, the court may set apart any portion
35 of property of either the husband or wife, or both, that seems necessary
36 and proper for the support of the child. Every order requiring payment
37 of child support under this section shall require that the support be paid
38 through the clerk of the district court or the court trustee except for good
39 cause shown. ~~If the divorce decree of the parties provides for an abate-
40 ment of child support during any period provided in such decree, the
41 child support such nonresidential parent owes for such period shall abate
42 during such period of time, except that if the residential parent shows
43 that the criteria for the abatement has not been satisfied there shall not~~

1 ~~be an abatement of such child support.~~

2 (2) *Child custody and residency.* (A) *Changes in custody.* Subject to
3 the provisions of the uniform child custody jurisdiction and enforcement
4 act (K.S.A. 38-1336 through 38-1377, and amendments thereto), the
5 court may change or modify any prior order of custody, residency, visi-
6 tation and parenting time, when a material change of circumstances is
7 shown, but no ex parte order shall have the effect of changing residency
8 of a minor child from the parent who has had the sole de facto residency
9 of the child to the other parent unless there is sworn testimony to support
10 a showing of extraordinary circumstances. If an interlocutory order is
11 issued ex parte, the court shall hear a motion to vacate or modify the
12 order within 15 days of the date that a party requests a hearing whether
13 to vacate or modify the order.

14 (B) *Examination of parties.* The court may order physical or mental
15 examinations of the parties if requested pursuant to K.S.A. 60-235 and
16 amendments thereto.

17 (3) *Child custody or residency criteria.* The court shall determine
18 custody or residency of a child in accordance with the best interests of
19 the child.

20 (A) If the parties have entered into a parenting plan, it shall be pre-
21 sumed that the agreement is in the best interests of the child. This pre-
22 sumption may be overcome and the court may make a different order if
23 the court makes specific findings of fact stating why the agreed parenting
24 plan is not in the best interests of the child.

25 (B) In determining the issue of child custody, residency and parent-
26 ing time, the court shall consider all relevant factors, including but not
27 limited to:

28 (i) The length of time that the child has been under the actual care
29 and control of any person ~~other than a parent~~ *including nonparents* and
30 the circumstances relating thereto;

31 (ii) the desires of the child's parents as to custody or residency;

32 (iii) the desires of the child as to the child's custody or residency;

33 (iv) the interaction and interrelationship of the child with parents,
34 siblings and any other person who may significantly affect the child's best
35 interests;

36 (v) the child's adjustment to the child's home, school and community;

37 (vi) the willingness and ability of each parent to respect and appre-
38 ciate the bond between the child and the other parent and to allow for a
39 continuing relationship between the child and the other parent; and

40 (vii) evidence of spousal abuse.

41 Neither parent shall be considered to have a vested interest in the
42 custody or residency of any child as against the other parent, regardless
43 of the age of the child, ~~and there shall be no presumption that it is in the~~

1 ~~best interests of any infant or young child to give custody or residency to~~
2 ~~the mother.~~

3 (4) *Types of legal custodial arrangements.* Subject to the provisions
4 of this article, the court may make any order relating to custodial arrange-
5 ments which is in the best interests of the child. The order shall provide
6 one of the following legal custody arrangements, in the order of
7 preference:

8 (A) *Joint legal custody.* The court may order the joint legal custody
9 of a child with both parties. In that event, the parties shall have equal
10 rights to make decisions in the best interests of the child.

11 (B) *Sole legal custody.* The court may order the sole legal custody of
12 a child with one of the parties when the court finds that it is not in the
13 best interests of the child that both of the parties have equal rights to
14 make decisions pertaining to the child. If the court does not order joint
15 legal custody, the court shall include on the record specific findings of
16 fact upon which the order for sole legal custody is based. The award of
17 sole legal custody to one parent shall not deprive the other parent of
18 access to information regarding the child unless the court shall so order,
19 stating the reasons for that determination.

20 (5) *Types of residential arrangements.* After making a determination
21 of the legal custodial arrangements, the court shall determine the resi-
22 dency of the child from the following options, which arrangement the
23 court must find to be in the best interest of the child. The parties shall
24 submit to the court either an agreed parenting plan or, in the case of
25 dispute, proposed parenting plans for the court's consideration. Such op-
26 tions are:

27 (A) *Residency.* The court may order a residential arrangement in
28 which the child resides with one or both parents on a basis consistent
29 with the best interests of the child.

30 (B) *Divided residency.* In an exceptional case, the court may order a
31 residential arrangement in which one or more children reside with each
32 parent and have parenting time with the other.

33 (C) *Nonparental residency.* If during the proceedings the court de-
34 termines that there is probable cause to believe that the child is a child
35 in need of care as defined by subsections (a)(1), (2) or (3) of K.S.A. 38-
36 1502 and amendments thereto or that neither parent is fit to have resi-
37 dency, the court may award temporary residency of the child to a grand-
38 parent, aunt, uncle or adult sibling, or, another person or agency if the
39 court finds the award of custody to such person or agency is in the best
40 interests of the child. In making such a residency order, the court shall
41 give preference, to the extent that the court finds it is in the best interests
42 of the child, first to awarding such residency to a relative of the child by
43 blood, marriage or adoption and second to awarding such residency to

1 another person with whom the child has close emotional ties. The court
2 may make temporary orders for care, support, education and visitation
3 that it considers appropriate. Temporary residency orders are to be en-
4 tered in lieu of temporary orders provided for in K.S.A. 38-1542 and 38-
5 1543, and amendments thereto, and shall remain in effect until there is
6 a final determination under the Kansas code for care of children. An
7 award of temporary residency under this paragraph shall not terminate
8 parental rights nor give the court the authority to consent to the adoption
9 of the child. When the court enters orders awarding temporary residency
10 of the child to an agency or a person other than the parent, the court
11 shall refer a transcript of the proceedings to the county or district attor-
12 ney. The county or district attorney shall file a petition as provided in
13 K.S.A. 38-1531 and amendments thereto and may request termination of
14 parental rights pursuant to K.S.A. 38-1581 and amendments thereto. The
15 costs of the proceedings shall be paid from the general fund of the county.
16 When a final determination is made that the child is not a child in need
17 of care, the county or district attorney shall notify the court in writing
18 and the court, after a hearing, shall enter appropriate custody orders
19 pursuant to this section. If the same judge presides over both proceedings,
20 the notice is not required. Any disposition pursuant to the Kansas code
21 for care of children shall be binding and shall supersede any order under
22 this section.

23 (b) *Financial matters.* (1) *Division of property.* The decree shall di-
24 vide the real and personal property of the parties, including any retire-
25 ment and pension plans, whether owned by either spouse prior to mar-
26 riage, acquired by either spouse in the spouse's own right after marriage
27 or acquired by the spouses' joint efforts, by: (A) a division of the property
28 in kind; (B) awarding the property or part of the property to one of the
29 spouses and requiring the other to pay a just and proper sum; or (C)
30 ordering a sale of the property, under conditions prescribed by the court,
31 and dividing the proceeds of the sale. Upon request, the trial court shall
32 set a valuation date to be used for all assets at trial, which may be the
33 date of separation, filing or trial as the facts and circumstances of the case
34 may dictate. The trial court may consider evidence regarding changes in
35 value of various assets before and after the valuation date in making the
36 division of property. In dividing defined-contribution types of retirement
37 and pension plans, the court shall allocate profits and losses on the non-
38 participant's portion until date of distribution to that nonparticipant. In
39 making the division of property the court shall consider the age of the
40 parties; the duration of the marriage; the property owned by the parties;
41 their present and future earning capacities; the time, source and manner
42 of acquisition of property; family ties and obligations; the allowance of
43 maintenance or lack thereof; dissipation of assets; the tax consequences

1 of the property division upon the respective economic circumstances of
2 the parties; and such other factors as the court considers necessary to
3 make a just and reasonable division of property. The decree shall provide
4 for any changes in beneficiary designation on: (A) Any insurance or an-
5 nuity policy that is owned by the parties, or in the case of group life
6 insurance policies, under which either of the parties is a covered person;
7 (B) any trust instrument under which one party is the grantor or holds a
8 power of appointment over part or all of the trust assets, that may be
9 exercised in favor of either party; or (C) any transfer on death or payable
10 on death account under which one or both of the parties are owners or
11 beneficiaries. Nothing in this section shall relieve the parties of the ob-
12 ligation to effectuate any change in beneficiary designation by the filing
13 of such change with the insurer or issuer in accordance with the terms
14 of such policy.

15 (2) *Maintenance.* The decree may award to either party an allowance
16 for future support denominated as maintenance, in an amount the court
17 finds to be fair, just and equitable under all of the circumstances. The
18 decree may make the future payments modifiable or terminable under
19 circumstances prescribed in the decree. The court may make a modifi-
20 cation of maintenance retroactive to a date at least one month after the
21 date that the motion to modify was filed with the court. In any event, the
22 court may not award maintenance for a period of time in excess of 121
23 months. If the original court decree reserves the power of the court to
24 hear subsequent motions for reinstatement of maintenance and such a
25 motion is filed prior to the expiration of the stated period of time for
26 maintenance payments, the court shall have jurisdiction to hear a motion
27 by the recipient of the maintenance to reinstate the maintenance pay-
28 ments. Upon motion and hearing, the court may reinstate the payments
29 in whole or in part for a period of time, conditioned upon any modifying
30 or terminating circumstances prescribed by the court, but the reinstatement shall be limited to a period of time not exceeding 121 months. The
31 recipient may file subsequent motions for reinstatement of maintenance
32 prior to the expiration of subsequent periods of time for maintenance
33 payments to be made, but no single period of reinstatement ordered by
34 the court may exceed 121 months. Maintenance may be in a lump sum,
35 in periodic payments, on a percentage of earnings or on any other basis.
36 At any time, on a hearing with reasonable notice to the party affected,
37 the court may modify the amounts or other conditions for the payment
38 of any portion of the maintenance originally awarded that has not already
39 become due, but no modification shall be made without the consent of
40 the party liable for the maintenance, if it has the effect of increasing or
41 accelerating the liability for the unpaid maintenance beyond what was
42 prescribed in the original decree. Every order requiring payment of main-
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1 tenance under this section shall require that the maintenance be paid
2 through the clerk of the district court or the court trustee except for good
3 cause shown.

4 (3) *Separation agreement.* If the parties have entered into a separa-
5 tion agreement which the court finds to be valid, just and equitable, the
6 agreement shall be incorporated in the decree. A separation agreement
7 may include provisions relating to a parenting plan. The provisions of the
8 agreement on all matters settled by it shall be confirmed in the decree
9 except that any provisions relating to the legal custody, residency, visita-
10 tion parenting time, support or education of the minor children shall be
11 subject to the control of the court in accordance with all other provisions
12 of this article. Matters settled by an agreement incorporated in the de-
13 cree, other than matters pertaining to the legal custody, residency, visi-
14 tation, parenting time, support or education of the minor children, shall
15 not be subject to subsequent modification by the court except: (A) As
16 prescribed by the agreement or (B) as subsequently consented to by the
17 parties.

18 (4) *Costs and fees.* Costs and attorney fees may be awarded to either
19 party as justice and equity require. The court may order that the amount
20 be paid directly to the attorney, who may enforce the order in the attor-
21 ney's name in the same case.

22 (c) *Miscellaneous matters.* (1) *Restoration of name.* Upon the request
23 of a spouse, the court shall order the restoration of that spouse's maiden
24 or former name.

25 (2) *Effective date as to remarriage.* Any marriage contracted by a
26 party, within or outside this state, with any other person before a judg-
27 ment of divorce becomes final shall be voidable until the decree of divorce
28 becomes final. An agreement which waives the right of appeal from the
29 granting of the divorce and which is incorporated into the decree or
30 signed by the parties and filed in the case shall be effective to shorten
31 the period of time during which the remarriage is voidable.

32 Sec. 6. K.S.A. 21-3605 and 38-1121 and K.S.A. 2000 Supp. 20-164
33 and 60-1610 are hereby repealed.

34 Sec. 7. This act shall take effect and be in force from and after its
35 publication in the statute book.

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